



TOWN OF EASTHAM

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TOWN OF EASTHAM BOARD OF APPEALS

Rules and Regulations of the Board of Appeals

The following rules and regulations are hereby adopted by the Eastham Board of Appeals and shall govern the submission of all appeals and the conduct of all hearings. These rules and Regulations are adopted in accordance with G.L. 40A, Section 12.

1. **MEMBERSHIP:** The Board of Appeals shall consist of five (5) regular members and two (2) associate (alternate) members, all to be appointed by the Board of Selectmen. The term of office of a regular member shall be for 3 years with the terms so arranged that the term of one member expires each year. The two (2) associate members shall whenever practical, meet with the regular board members at hearings and shall be appointed by the Chairman to serve in the absence of regular members. Associate members in attendance at any hearing shall sit with the regular members. The Associate members shall vote only when assigned by the Chairman in the absence of a regular member (or members).
2. **ELECTION OF OFFICERS:** The regular members shall elect a Chairman and Vice Chairman to serve for a period of one year. This election shall take place within thirty days after the appointment(s) are made to the Board in June, but not later than the first meeting after the appointment(s) are made.
3. **DUTIES OF OFFICERS:**
 - A. Chairman: to conduct and control all hearings; to appoint one or both associate members to serve in the absence of regular members; to call special meetings as necessary; to appoint a clerk or acting clerk.
 - B. Vice-Chairman: to act in the absence of the Chairman.
 - C. Clerk: to record by audio tape all matters before the Board and assemble and prepare the minutes of all hearings held by the Board.
4. **MEETINGS OF THE BOARD:** All meeting of the Board shall be open to the public. Meetings and hearings of the Board shall be held on the second Thursday of each month beginning at 7:00 p.m., at the Town Hall or at such other place as the Chairman or Acting Chairman may from time to time designate. The Board shall whenever deemed necessary take a view of sites and buildings involved in applications before the Board. A site visit agreed upon and established by the Board is not a meeting requiring public notice. A detailed record of its proceedings and official actions shall be filed in the office of the Town Clerk. Notice of the Board's decision shall be mailed forthwith to parties of interest.
5. **APPLICATIONS TO THE BOARD:** All applications to the Board shall be submitted on the form (or forms), provided by the Board for such application and shall be accompanied by the

filing fee required. All information and plans required and specified in the application and checklist are required to be filed for a completed application unless waived by the Board on any particular application. The Applicant shall at the discretion of the Board, submit satisfactory indication of ownership, occupancy, or special interest in: the land/buildings to which a decision of the Board, would apply. The Board can decide to take no action on an application that is not completed according to the specifications required.

6. PUBLIC NOTICE OF HEARINGS: All hearings shall be given in an official publication or newspaper of general circulation within Barnstable County once in each two successive weeks, the first publication to be not less than fourteen days prior to the date set by the Chairman. Special notice by certified mail, postage prepaid, at least 14 days prior to any hearing shall be given by the Clerk of the Board to all persons who are "parties of interest" as defined in G.L. c 40A, Section 11. Notice shall be given to the Board of Selectmen, Town Clerk, Planning Board and the Building Inspector.

If the applicant wishes to postpone a hearing, at least ten (10) days advance notice must be given to the Board of Appeals. This is so abutters can be given adequate notice of the change.

7. CONTINUED HEARINGS: If a hearing is continued to a later meeting, such motion shall contain a "date certain" and will serve as notice to parties of interest. Any revised plans or supplemental information provided by the Applicant for consideration of the Board at a continued hearing shall be submitted the Thursday prior to the next regularly scheduled meeting. Revised plans submitted to the Board at a hearing will not be considered at that meeting.
8. DECISIONS OF THE BOARD: Votes shall conform to the requirements of M.G.L. C 40A, Section 9 and 15 and any amendments thereto.
 1. Special Permit: to grant requires concurring vote of at least 4 of the 5 voting members.
 2. An appeal from a decision of the Building Inspector (an enforcement action); to reverse the Building Inspector requires concurring vote of at least 4 of the 5 voting members.
 3. Variance: to grant requires a concurring vote of at least 4 members of the 5 voting members,
9. WAIVERS: The Board may waive strict compliance with the requirements of these rules and regulations, when, in the judgment of the Board, such action is in "the public interest and not inconsistent with the Zoning Enabling Act of the Zoning By-Laws of the Town of Eastham.

10. PROJECT REVIEW FEES:

In accordance with M.G.L. Chapter 44, Section 53G, the Zoning Board of Appeals may impose project review fees for those applications which require the services of outside consultants for the review process due to the size, complexity, or scale of a proposed project; the need for additional expertise in the review; or because of the potential impacts of a project. The Board may engage attorneys, engineers, planners, landscape architects, architects or other appropriate professionals.

Fee Payment

The Zoning Board of Appeals shall determine the amount of the initial deposit to be made and the amount of any additional funds that may be required during the review process. The

applicant shall pay such fees to the Town of Eastham and such fees shall be deposited in a special account with the Town.

Expenditure of Fees

Outside consultants retained by the Zoning Board of Appeals shall be paid from this special account. The expenditure of said fees shall be at the direction of the Zoning Board of Appeals, without further appropriation. Said fees are to be expended only in connection with services rendered for the specific project for which the fees were collected.

Excess Fees

After completion of the ZBA's review of a project, any excess fee amount, including interest, shall be refunded to the applicant or the applicant's successor in interest and a final report of said account shall be made available to the applicant or applicant's successor in interest.

Failure to Pay Fee

Failure to pay a Review Fee by the applicant shall be grounds for disapproval of the subject application.

Administrative Appeals

The choice of a consultant selected by the Zoning Board of Appeals for the review of an application may be appealed in writing to the Board of Selectmen by the applicant, provided such appeal is initiated within two weeks of the selection. The ground for such appeal shall be limited to claims that the selected consultant:

- a) has a conflict of interest;
- b) does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree in or related to the field at issue or three years of practice in the field at issue or a related field.

The required time limits for action upon an application by the Zoning Board of Appeals shall be extended by the duration of the administrative appeal.

In the event that no decision is made by the Select Board within one month following the filing of an administrative appeal, the selection made by the Zoning Board of Appeals shall stand.

Reports

The Town Treasurer shall submit annually a report of said special account to the Chief Elected Board and Chief Administrative Officer of the Town.

The Town Treasurer shall cause said report to be published in the annual report the Town. The Town Treasurer shall submit annually a copy of said report to the director of the Bureau of Accounts.

Date Published: 12/91

Date Adopted: 2/13/91

Date Revised: 1/14/10